

The Blackfeet Tribal Business Council (BTBC), the governing “Tribal Council” body of the Blackfeet Indian Reservation, respectfully submits the following Comments regarding the Request by Ronan Telephone Company (RTC) for an Order approving an additional extension of the Tribal Lands Bidding Credit construction deadline requirement for a portion of the 700 MHz License area- Montana RSA 1 market (CMA 523), Call Sign WPZK450, located on the Blackfeet Indian Reservation, Montana. The

Request by RTC was filed on November 16, 2007. On December 26, 2007 the FCC released a Public Notice, setting dates for initial Comments to be filed by January 10, 2008, and Reply Comments by January 17, 2008; (DA 07-5094).

The grounds for RTC's request for a two year extension/waiver are set forth in detail in RTC's filing of November 16, 2007. RTC has requested expedited action by the Commission on its Request, since the current build-out deadline would expire on January 29, 2008. These Comments are filed by the Blackfeet Tribal Business Council in support of RTC's Request herein. The BTBC supports RTC's position in this matter and respectfully requests that the FCC grant RTC's Request.

Formation of Oki Communications

The Blackfeet Tribe (through our Tribe's economic development subsidiary, Siyeh Development, Inc. [Siyeh]) and RTC formed a new business entity partnership in July of 2006, for the purpose of planning and building a system to provide wireless telecommunications service on the Blackfeet Indian Reservation, utilizing the Lower 700 MHz Band (C Block) license obtained for Montana RSA 1- Lincoln (CMA 523), in FCC Auction No. 44. The Blackfeet Tribe and Siyeh entered into this partnership with RTC for these purposes, consistent with the Agreement that was reached between our Tribe and RTC for Certification of RTC for the Tribal Lands Bidding Credit eligibility; *See*, 47 C.F.R. §1.2110(e)(3). The new company was named Oki Communications, LLC, (Oki) and was formed as a Montana Limited Liability Company, with a five member "Management Committee" serving the same functions as a Corporation's Board of Directors. Oki's Management Committee consists of representatives from both RTC and Siyeh. "Oki" is the word in the Blackfeet language signifying a friendly greeting. The purpose of the company is to provide wireless Internet Protocol telecommunications services (initially high-speed Internet access) to the residents, businesses and institutions of the Blackfeet Reservation. Oki has provided high-speed Internet service to the largest

town on the Reservation, Browning (and the surrounding area), since November, 2006. At the time this is being written, service is also being initiated in the small community of East Glacier Park. The next phase of the business plan will expand the service to other rural areas and small Reservation communities, including the eastern rural area of the Reservation west of the town of Cut Bank, and Heart Butte, St. Mary's and Babb. After Internet Service is firmly established, Oki plans to add voice services using Voice over Internet Protocol (VOIP).

One important objective of Oki is to hire local employees, providing employment and training to local residents of the Reservation. This is consistent with a principal goal of the Tribe and will avoid the "outsourcing" which has historically occurred when these services were provided exclusively by the monopoly incumbent Local Exchange Carrier (Three Rivers Telephone Cooperative [3 Rivers]) based off of the Reservation in a community over 80 miles south of Browning. Oki currently has two full time employees and contributes to the employment of three Siyeh employees who provide support services for Oki, all of which are residents of the Reservation and members of the Blackfeet Tribe.

We expect that as Oki grows, and gains experience and expertise, it will be able to operate independently of RTC. Pursuant to the partnership agreement between our Tribe and RTC, as we are able to complete our capital investment into Oki, it will be majority owned by our Tribe. This is one of the principal goals of this business venture— to establish a tribally-owned telecommunications business enterprise on the Reservation that honors our Tribe's overarching policy goal of maintaining and enhancing our sovereignty. This goal is also consistent with the policies and goals of the FCC in encouraging competitive wireless services on Indian Reservations, and promoting Tribal

businesses pursuant to the FCC Indian Telecommunications Initiatives, of which the FCC Tribal Lands Bidding Credit program is a component.¹

Services and Rates

The following table shows the current rates Oki offers for four different service types and bandwidth offerings. There are now 274 Basic customers, 16 Deluxe customers, three Small Tribal Programs and one Large Tribal Program installed, and Oki has a backlog of 10 installation requests.

OKI CURRENT RATE SCHEDULE

<u>Service type</u>	<u>Bandwidth Delivery</u>	<u>Price / Mo.</u>
Basic	1 Mb Download, 512 Kb Upload	\$29.95 / Mo.
Deluxe	1.5 Mb Download, 1 Mb Upload	\$44.95 / Mo.
Small Tribal Programs	1.5 Mb Download, 1.5 Mb Upload	\$75.00 / Mo.
Large Business or Programs	2.0 Mb Down, 1.5 Mb Upload	\$195.00 / Mo.
Installation charge:		\$50.00

This compares very favorably with the alternative broadband Internet service offered in Browning by the incumbent LEC, 3 Rivers Telephone Cooperative. 3 Rivers offers 1 Mb download DSL service (only in Browning) for \$49.95 per month, which is \$20.00 more than the monthly charge for Oki's equivalent basic service.

Waiver/Extension Request

The Blackfeet Tribal Business Council fully supports RTC's request for a

¹ See, e.g. In the Matter of Extending Wireless Telecommunications Services to Tribal Lands, *Report and Order*, 15 FCC Rcd 11794, at 11801-11802, ¶¶18-20 (2000).

waiver/extension of the Tribal Lands Bidding Credit construction requirement deadline on the Blackfeet Indian Reservation. RTC's filing with the Commission correctly describes the problems and circumstances that have slowed progress in expanding service to additional areas on the Reservation. With Oki's expansion of service into East Glacier Park, Oki will offer service to 64% of the total Reservation population. This is a significant accomplishment, in light of the many obstacles which have been faced and overcome by RTC, BTBC, and Oki during the past four years. Given the remaining problems, it is reasonable to grant RTC an additional two years to satisfy the 75% construction requirement, pursuant to 47 C.F.R. 1.2110.

Pursuant to Commission rules, a waiver may be granted if: 1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and that grant of the waiver would be in the public interest; or 2) where there are unique or unusual factual circumstances, and application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or when the applicant has no reasonable alternative. 47 C.F.R. §1.925(b)(3). FCC rules also allow a waiver for "good cause". 47 C.F.R. §1.3. Extensions of time to meet construction/build-out requirements are permitted pursuant to 47 C.F.R. §1.946(e). FCC Orders have specifically held that extensions/waivers of license construction requirements may be granted due to technical obstacles, low population density and terrain on remote tribal lands, and economic factors.²

It required considerable time and effort to negotiate and form the business partnership between our Tribe and RTC, which was necessary before final business planning, capitalization or construction could begin. Although the 700 Mhz "C" Block spectrum license was granted in 2004, it was not until July of 2006 that Oki

² *Second Report and Order*, 18 FCC Rcd 4775, at ¶22 (2003); *Third Report and Order*, 19 FCC Rcd 17652, at ¶8 (2004).

Communications was formed. This delay was caused by several unsuccessful attempts to secure grant funding. In addition, the delay in the formation of the partnership arrangement that led to the creation of Oki was necessary to ensure that a satisfactory partnership arrangement was created that honored our primary policy goal of maintaining and enhancing our Tribal sovereignty and independence. Most importantly, Oki Communications will become a locally based Tribal business, employing local Tribal members, and upon our contribution of our capital commitment to Oki, will become majority owned by the Tribe. This satisfies the Tribe's principal policy goals in this endeavor, as well as the FCC's goals in the Indian Telecommunications Initiatives program.

The very low population density and terrain on the Reservation have posed significant problems which have delayed the construction and deployment of a 700 Mhz system beyond the Browning and East Glacier Park areas. The Blackfeet Reservation is located on the eastern "front range" of the Rocky Mountains, bordering to the east of the extremely mountainous Glacier National Park. Browning is by far the largest town on the Reservation, with a population of 5,050³, out of a total Reservation population of 10,100 (2000 Census). The residents of the Reservation who live outside the Browning and East Glacier Park service areas of Oki are scattered in many very small communities (with populations only in the hundreds), and on farms and ranches throughout the remaining 2100 square miles of the Reservation. Outside of Browning, the population density of the Reservation is only approximately 1.7 persons per square mile. A 700 Mhz cell site, however, can only serve approximately 200 square miles, depending upon the terrain. In addition, because of the high winds which frequent our Reservation lands, many farmhouses, ranches and other residences are located in ravines or at the downwind side of the base of hills, which help to partially shelter these locations from the wind.

³ The population figure of 5,050 is for the "Browning Census Tract," which is a smaller area than the area served by Oki's Browning wireless broadband 700 MHz cell site.

However, this practice makes it more difficult to provide a high quality 700 Mhz signal to those locations, since the topography of the ravines and hills also weakens the 700 Mhz signal. These circumstances, combined with the limited capital available to Oki to date, and other technical problems, made it impossible to meet the build-out requirement within the deadline imposed; *See*, RTC Request for Waiver and Extension, pp. 6-11.

Economic limitations have also proven to be a major obstacle in completion of Oki's construction plans. The partnership agreement between our Tribe and RTC provides that BTBC is to provide \$204,000 in capital to Oki. However, due to our Tribe's serious budget problems, we have only been able to invest \$50,000 to date. The Tribe was also twice unsuccessful in obtaining Grant funds for Oki. We now expect to be able to invest the remaining sum of \$154,000 of our capital commitment in Oki in the near future. This significant capital infusion will assist in the deployment of services to the rural area of the Reservation west of Cut Bank (the town of Cut Bank lies just east of the Reservation's eastern boundary) as well as to the small towns of Heart Butte, St. Mary and Babb.

Other problems have plagued the deployment of 700 Mhz services on the Reservation, including: the interference from UHF TV Channel 54; lack of cost efficient data transport infrastructure upstream to the open Internet; a short construction season; and summer wildfires restricting access to reservation lands during that short construction season, which are described in more detail in RTC's Request for Waiver.

Summary

The BTBC strongly supports RTC's Request for Waiver and Extension of the Tribal Lands Bidding Credit construction requirement for the Blackfeet Indian Reservation. We are pleased with the progress made thus far by RTC and Oki, both from a technical perspective and from the very favorable community response to this new service. There are challenges ahead, of course, but the initial progress and indications

are encouraging, and we are optimistic that this will eventually become a profitable, self-sustaining Tribally-owned and controlled business, that will provide good jobs to Tribal members, and will provide high quality high-speed Internet service reservation-wide. For a variety of reasons it has proven impossible to offer service to 75% of the Reservation population at the present time, despite Oki's and RTC's best and diligent efforts. But Oki now offers service to 64% of the Reservation population, and should be able to provide service to more than 75% within the next two years, if an extension is granted by the Commission. The Commission should not penalize RTC and Oki at a time when they are poised to succeed. We request that the Commission recognize and affirm its policies to assist Indian Tribes in the deployment of advanced telecommunications services and grant this Request in recognition that by doing so, the Commission will be promoting a more mutually agreeable government-to-government relationship between the FCC and the Blackfeet Nation. By granting RTC's Request, the Commission will be assisting in the creation of a successful and eventually Tribally-owned telecommunications business on the Blackfeet Reservation. This is a worthy goal, and could become a model for similar businesses on other Indian Reservations throughout the Nation.

The BTBC therefore supports RTC's Request, and asks that the Commission grant RTC an extension of two more years, until January, 2010, to construct a system that serves at least 75% of the population of the Blackfeet Indian Reservation.

DATED: January 10, 2008

Respectfully Submitted,



Earl Old Person, Chairman
Blackfeet Tribal Business Council



Date